

<b>Committee:</b>	<b>Date:</b>
Planning & Transportation Committee	30th April 2019
<b>Subject:</b> Update on Ventilation & Extraction requirements for restaurants/cafes	<b>Public</b>
<b>Report of:</b> Chief Planning Officer and Development Director	<b>For Information</b>
<b>Summary</b> Members requested an update report to that presented to the Committee on 20/11/18 which set out the controls and standards for the provision of ventilation and extraction systems for restaurants and cafes. Since that meeting a new condition has been drafted which is now used on all relevant planning permissions and secures the maintenance of all equipment once installed. Members also requested an update on any ongoing enforcement investigations in respect of unauthorised or problematic installations. There are two live investigations under planning legislation and three under environmental health legislation.	
<b>Recommendation</b>  For noting	

## Main Report

### Background

1. Members had raised concerns about the odours being extracted at ground floor level from restaurant and café premises and a report was presented in November 2018 which set out the statutory context for controlling such emissions and explained the approach of the City from a Planning and Environmental Health perspective in dealing with this matter. Members have subsequently requested an update on any ongoing enforcement investigations in respect of any unauthorised or problematic installations.

### Actions from the P&T Committee on 20/11/18

2. As set out in the minutes of the above Committee meeting, a new condition has been drafted which is now used on all relevant planning permissions and secures the maintenance of all equipment once installed. The condition requires the following:

*All parts of the ventilation and extraction equipment including the odour control systems installed shall be cleaned, serviced and maintained in accordance with Section 5 of 'Control of Odour & Noise from Commercial Kitchen Extract Systems' dated September 2018 by EMAQ+ (or any subsequent updated version). A record of all such cleaning, servicing and maintenance shall be maintained and kept on site and upon request provided to the Local Planning Authority to demonstrate compliance.*

*Reason: To protect the occupiers of existing and adjoining premises and public amenity in accordance with Policies DM 10.1, DM 15.7 and DM 21.3*

### **Enforcement Investigations**

3. **Planning** - The only circumstances where an enforcement investigation under planning legislation would occur would be where the plant and extraction equipment had been installed without the benefit of planning permission or where the equipment installed is not in accordance with the details approved under the relevant planning permission.

4. There are two ongoing planning enforcement investigations in respect of extraction/ventilation equipment both of which relate to odour issues arising from unauthorised changes of use to hot food take-aways (Use Class A5). The first case at 148 Fleet Street is still under investigation and negotiation to regularise the breach. The second relates to 53-54 Aldgate High Street which is the subject of an appeal to the Secretary of State against the issue of an enforcement notice.

5. **Environmental Health** - Odour can constitute a statutory nuisance. Section 79 Environmental Protection Act 1990 can control odour from restaurants and commercial kitchens where the odour is affecting another premises. Enforcement powers do not extend to odours experienced on the street. Environmental Health will investigate any complaint and in the event of a nuisance or a situation prejudicial to health being substantiated, have the power to serve notice under Section 80 of the above Act to require works to be undertaken to abate the nuisance. Works may also be requested more informally through negotiation where the odour may not meet the statutory threshold.

6. In the period November 2018 to April 2019 there have been four cases of alleged odour nuisance under investigation, none of which have met the threshold of statutory nuisance. Two cases have been the subject of collaborative investigation alongside the Planning Authority as described above, 148 Fleet Street and 53-54 Aldgate High Street. A case at 2 Love Lane has been resolved informally following intervention by the Environmental Health Officer leading to a deep clean of the ductwork and a change of filters. A further complaint at 1 Cloth Fair is under investigation.

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